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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of Section 3(n) and 332 of the Communications Act	)	GN Docket No. 93-252
	)	
Regulatory Treatment of Mobile Services	)	

To: The Commission

REPLY COMMENTS OF SEA, INC.

SEA, Inc. ("SEA"), by its undersigned counsel, hereby files its Reply Comments in accordance with the Commission's Further Notice of Proposed Rulemaking ("Further Notice") in the above-captioned proceeding.[1/]

1. In its Comments filed in this proceeding on June 20, 1994, SEA addressed issues pertaining to implementation of the new 220 MHz service, as well as issues raised by the Petition for Declaratory Ruling and Request for Rule Waiver filed by SunCom Mobile & Data, Inc. ("SunCom Request"). Further Notice at para. 38. SEA's position regarding the 220 MHz service, as set forth in its June 20 Comments and in these Reply Comments, is based on its experience as a manufacturer and supplier of 220 MHz equipment, a licensee of several local five-channel trunked 220

1/ Further Notice of Proposed Rulemaking, GN Docket No. 93-252, FCC 94-100, released May 20, 1994.

MHz systems and as a manager of numerous other five-channel trunked commercial 220 MHz systems in various markets throughout the U.S. Based on its status as a supplier of production 220 MHz equipment for dozens of systems in operation in the U.S. today, SEA possess a broad and intimate understanding of the problems and issues facing providers and users of 220 MHz service.

2. Having reviewed the comments in this proceeding filed by parties who expressed interest in the 220 MHz service, SEA has identified six topics that merit attention in its Reply Comments: (1) whether there is a substantial similarity between 220 MHz service and that provided by traditional common carrier providers of Commercial Mobile Radio Service ("CMRS"); (2) whether the Commission should grant the SunCom petition for regional licensing of 220 MHz service with an eight-year construction timetable or, alternatively, allow regional networks to evolve naturally in the marketplace; (3) the need for an extension of the current construction deadline of December 2, 1994; (4) the status of systems above "Line A" with respect to interference from systems operating in Canada; (5) the desirability of a uniform licensing date for all 220 MHz systems that were the subject of the initial lottery; and (6) the need to allow present licensees to modify their licenses before the Commission

entertains applications for new licenses in the 220 MHz service. Each of these six topics is addressed below.

1. 220 MHz Service is Not "Substantially Similar" to CMRS Services

At paragraph 17 of the Further Notice, the Commission expressed the view that it was unlikely that 220 MHz licensees would offer services "similar to those provided by cellular or other broadband licensees."[2/] All parties commenting on this topic agreed.[3/] Because there is no substantial similarity between 220 MHz service and other mobile radio services such as cellular, ESMR, etc., the Commission should not apply comparable technical and operational rules to the newly evolving 220 MHz service.

2. 220 MHz Network Aggregation Can Occur Without Any Change in the Rules or the Licensing Scheme

Almost all parties commenting on the SunCom proposal for relicensing the 220 MHz band on a "regional" basis with an eight-year phased construction program opposed the idea.[4/] The premise of SunCom's Request is that 220 MHz systems can be viable only if they are configured as regional (or larger) networks and

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2/ Further Notice at paragraph 17.

3/ See, for example, Comments of SEA, Inc. at 6-9; E.F. Johnson Co. at 6-7; American Mobile Telecommunications Association, Inc. ("AMTA") at 19-20; SmartLink Development, L.P. ("SmartLink") at 3.

4/ The only party in favor of granting the relief requested by SunCom was Simrom, Inc. ("Simrom") at 9.

that there is no place for stand-alone local five-channel trunked systems. This premise is false. Numerous local five-channel trunked systems for which SEA has supplied equipment are operating on a stand-alone basis, including those that are being operated in classic private radio fashion, i.e., for meeting the internal dispatch communications needs of the licensee itself. The SunCom Request should be denied by the Commission on the grounds that it is unnecessary and would be disruptive to the newly established 220 MHz service. As SEA stated in its Comments, aggregation of licenses should be allowed to evolve naturally over time as the market for 220 MHz serve develops and matures; indeed, such aggregation already is contemplated by Section 90.739 of the rules after a system has been constructed.[5/] SEA continues to believe that the Commission should require that 220 MHz systems be built in accordance with an appropriate construction deadline, and that aggregation of licenses be permitted.

3. SEA Favors a Reasonable Extension of the Construction Deadline

SEA stated in its Comments that it had no objection to an extension of the present construction deadline of December 2, 1994, as long as such extension is rationally related to relevant facts and circumstances giving rise to the need for additional

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5/ SEA Comments at 18-19.

time to construct a system.[6] All parties commenting on the current construction deadline expressed the view that some additional time was necessary. Having reviewed the positions of all parties,[7] SEA supports a construction implementation schedule that would require that 20% of all systems under contract by a single entity be constructed by the present deadline of December 2, 1994, with a further requirement that 100% of systems under common management agreements be built no later than two years thereafter, i.e., December 2, 1996. Entities with multiple systems under contract through management agreements or other arrangements would be required to certify to the Commission no later than October 3, 1994, the extent of their proposed networks for the purpose of ascertaining the 20% requirement.[8]

4. The Commission Should Grant Relief for 220 MHz Licenses North of Line A

One of the commenting parties, Simrom, Inc., urged the Commission to resolve the dilemma presently confronting 220 MHz licensees of systems located north of Line A near the Canadian border. SEA agrees. The authorizations for these systems will terminate if they are not constructed by the December 2, 1994

6/ SEA Comments at 16.

7/ I.e., U.S. Mobilcomm, E.F. Johnson, Police Emergency Radio Services, Inc., Simrom, AMTA, SmartLink and SunCom.

8/ This procedure is similar to that proposed in the U.S. Mobilcomm Comments at 9-10.

deadline. However, because negotiations between the U.S. and Canadian governments over the use of the 220 MHz spectrum near the Canadian border have not yet been completed, these licenses are conditioned on the outcome of those negotiations and could be substantially modified or made secondary to Canadian operations in the 220 MHz band. SEA agrees with Simrom that, at the very least, the Commission should grant an indefinite extension of the construction deadlines for 220 MHz authorizations north of Line A until the U.S. Canadian negotiations are concluded. In addition, SEA urges the Commission to conclude the negotiations with Canada expeditiously and, in that regard, recommends that the Commission use these same formulas as were used in the recent agreement reached with Mexico regarding 220 MHz frequencies that are secondary and those that are primary. Use of the same formulas for 220 MHz operations near the Canadian border as were used for those near the Mexican border will result in uniformity within the U.S. for operations on 220 MHz channels. This basic strategy will at least give U.S. licensees some idea of whether their licenses will be either primary or secondary.

5. The Commission Should Issue a Ruling That All Presently Existing 220 MHz Licenses Are Deemed To Have Been Issued Prior to August 10, 1993

Section 6002(c)(2)(B) of the Omnibus Budget Reconciliation Act of 1993 ("Budget Act") established a three-year transition rule for private radio licensees that were newly classified as CMRS but licensed prior to August 10, 1993. Although the 220 MHz lottery establishing the license winners was

held long before August 10, 1993, and although most of the actual licenses were issued prior to that date, the Commission's staff waited until after August 10, 1992 to issue some of the 220 MHz licenses. By choosing the license issuance date rather than the date of the lottery as the operative date for purposes of the three-year transition eligibility under the Budget Act, the Commission has arbitrarily bifurcated the 220 MHz licensees into two classes -- those that are subject to the three-year transition period and those that are not -- based solely on the arbitrary and accidental timing of license issuance by the Commission's staff. SEA agrees with Simrom[9/] that the Commission holds broad authority under the Communications Act for issuance and modification of licensees and that the Commission should exercise that authority by modifying the licenses of adversely affected 220 MHz licensees to show an issuance date prior to August 10, 1993.

6. The Commission Should Allow Existing Licensees to Modify Their Licenses Before New Licenses Are Granted

Numerous 220 MHz licenses have received Special Temporary Authority (STA) to modify their facilities, primarily to relocate transmitter sites. STAs were necessary to accomplish this because the Commission has not yet reopened the filing window for any further 220 MHz applications, including those for modification of existing licenses. The Commission should allow

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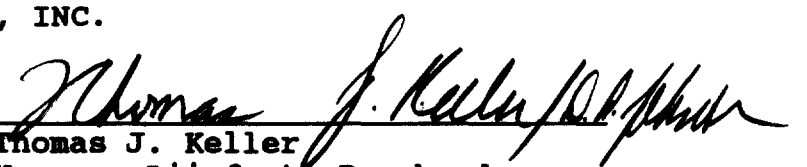
9/ Simrom Comments at 25-28.

those licensees who have received STAs to file applications for modification of their licenses to correspond to the STAs prior to entertaining applications for new 220 MHz facilities. Otherwise, it is possible that there will be conflicting applications for new 220 MHz systems which could bar the use of appropriate transmitter facilities for existing 220 MHz licensees. SEA agrees with AMTA[10/] that the Commission should prohibit the filing of any new five-channel trunked 220 MHz applications until after applications for modification of existing facilities have been filed and acted upon.

For the foregoing reasons, SEA respectfully requests the Commission to adopt the positions advanced by SEA in its Comments and Reply Comments in this proceeding.

Respectfully Submitted,

SEA, INC.

By: 

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10/ AMTA Comments at 23-24.

CERTIFICATE OF SERVICE

I, Deirdre A. Johnson, hereby certify that true copies of the foregoing **REPLY COMMENTS OF SEA, INC. in GN Docket No. 93-252** were sent this 11th day of July, 1994, by first-class United States mail, postage prepaid to the following:

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